

REMARKS

This preliminary amendment is filed concurrently with and applies to the above-noted continuation application of Application No. 09/ 889,802.

Amendment to the Specification:

The amendment to the specification made herein is made in order to include the specific reference to priority documents required under 37 C.F.R. 1.78 (a)(2). The amendment adds no new matter.

Request for Interference Under 37 C.F.R. §1.604

Applicants request an interference between this application and two published, pending patent applications under 37 C.F.R. §1.604. Claims 1-3 as presented herein are drawn to the same patentable invention of certain claims in published U.S. Patent Application US 2002/0086356 A1 (09/821,832) and in U.S. Patent Application US 20030108923 A1 (10/255,568), as detailed below.

Support for the new claims, correspondence of the new claims to claims in the published, pending applications, and proposed counts for the interference are set out below.

Per 35 U.S.C. §135(b), the claims submitted herewith are being filed less than one year after the earliest publication date (July 4, 2002) of these patent applications. Both published patent applications are assigned to the Whitehead Institute for Biomedical Research, and are provided herewith as Exhibits A and B.

Support for the new claims in the instant specification:

New claims 1-3 are supported in the instant specification as follows:

Support for RNA that mediates RNA interference of an mRNA to which it corresponds is found throughout the specification.

Additional support for claim 1 is found at page 17, lines 9-12 of the above-referenced patent application:

“A dsRNA linked chemically at the 3’ end of the RNA as shown in sequence listing No. 8 to the 5’ end of the complementary RNA via a C18 linker group was prepared (L-dsRNA).”

And on page 4 of the sequence listing, which states:

“Description of the artificial sequence: RNA which corresponds to a sequence from the YFP gene.

C400> 8

ucgagcugga eggcgacpua a 21.”

Additional support for claim 2 is found at page 11, lines 1 & 2:

“In accordance with the method outlined hereinabove, an RNA 23 nucleotides in length was also synthesized.”

Additional support for claim 3 is found at page 3, lines 27-38, page 7, lines 10-16, and in Example 2, page 16, line 21 to page 19, line 18.

In view of the support present in the instant patent application, as outlined above, it is submitted that the claims added in this divisional application are clearly described, defined and supported in the instant patent application.

Correspondence of the claims to claims recited in pending applications:

New claims 1 and 2 both correspond to claim 1 of US 2002/0086356 A1 and to claim 1 of US 20030108923 A1. New claim 3 corresponds to claim 17 of US 2002/0086356 A1 and claim 17 of US 20030108923 A1.

Proposed Counts:

Applicants propose the following 3 counts for the interference.

Count 1. Isolated RNA of 21 nucleotides that mediates RNA interference of an mRNA to which it corresponds.

This count corresponds to claim 1 of the continuation application filed herewith and to claim 1 of each of published applications US 2002/0086356 A1 and US 20030108923 A1.

Count 2. Isolated RNA of 23 nucleotides that mediates RNA interference of an mRNA to which it corresponds.

This count corresponds to claim 2 of the continuation application filed herewith and to claim 1 of each of published applications US 2002/0086356 A1 and US 20030108923 A1.

Count 3. A method of mediating RNA interference of mRNA of a gene in a cell or organism comprising: (a) introducing RNA of 21 or 23 nucleotides which targets the mRNA of the gene for degradation into the cell or organism; (b) maintaining the cell or organism produced in (a) under conditions which permit inhibition of the mRNA, thereby mediating RNA interference of the mRNA of the gene in the cell or organism.

This count corresponds to claim 3 of the continuation application filed herewith and to claim 17 of each of published applications US 2002/0086356 A1 and US 20030108923 A1.

In view of the above, Applicant submits that new claims 1-3 are supported by the specification, and because the new claims claim the same patentable invention as published applications US 2002/0086356 A1 (09/821,832) and US 20030108923 A1 (10/255,568), Applicant respectfully requests an interference with these applications.

Respectfully submitted,



Date: 6/2/03

Name: Kathleen Williams
Registration No.: 34,380
Palmer & Dodge LLP
111 Huntington Avenue
Boston, MA 02199-7613
Tel: 617-239-0100